

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

December 17, 2002

The Capital Projects and Bond Oversight Committee met on Tuesday, December 17, 2002, at 1:00 PM, in the Kentucky Higher Education Assistance Authority (KHEAA) conference room. Representative Jodie Haydon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jodie Haydon, Chair; Senator Robert Leeper, Vice Chair; Senator Tom Buford; and Representatives Robert Damron, Paul Marcotte, and Jim Wayne.

Legislative guest: Representative Joe Barrows.

Guests testifying before the committee: Dr. Joe McCormick, Kentucky Higher Education Assistance Authority; Jamie Link, Glenn Mitchell and Armond Russ, Finance and Administration Cabinet; Bill Hintze, Governor's Office for Policy and Management; Dr. Michael McCall and Ken Walker, Kentucky Community and Technical College System; Mayor Fred Siegelman, City of Versailles; Ann Latta, Tourism Development Cabinet; Roger Recktenwald and Sandy Williams, Kentucky Infrastructure Authority; and Tom Howard, Office of Financial Management.

LRC Staff: Mary Lynn Collins, Pat Ingram, Nancy Osborne, Kevin Mason, Bart Hardin, and Shawn Bowen.

Senator Jackson made a motion to approve the minutes of the November 19, 2002 meeting as submitted. The motion was seconded by Senator Leeper and passed by voice vote.

Chairman Haydon thanked Dr. McCormick and his staff for hosting the committee meeting in the new KHEAA building. He said this is an opportunity for committee members to see first-hand one of the projects that it has monitored since 1998. Dr. McCormick said he was delighted to host the meeting, and the KHEAA conference room is available for future meetings. He said a tour of the building will be conducted after the meeting.

Chairman Haydon introduced a new staff member – Bart Hardin. He then called on Ms. Mary Lynn Collins, Committee Staff Administrator, to review correspondence

included in members' folders. Ms. Collins said the first item was correspondence from Secretary Flannery concerning two projects that the committee had deferred action on last month the Eastern Kentucky Exposition Center and the Lieutenant Governor's Mansion Renovation project. After last month's meeting, Secretary Flannery sent two letters to the committee, one on each of the projects, indicating that he thought they needed to move forward because the construction bids on both were in hand, and that he was giving his final authorization for those projects to proceed rather than wait for the committee's consideration. Ms. Collins noted that Secretary Flannery reduced the Contingency Allocation for the Eastern Kentucky Exposition Center from \$3.7 million to \$1.7 million.

Representative Wayne criticized the action to proceed prior to the committee's meeting today. He said when the administration acts in this way, it is an insult to the committee and it sets up confrontational relationships. Representative Wayne said he hoped the administration will change its approach to this committee.

Representative Marcotte agreed with Representative Wayne. He said this is not the way to build relationships with the legislature. He asked if the committee should consider legislation that will restrict the administration's ability to override a committee vote. Representative Damron said there are discussions underway concerning a constitutional amendment that would give more power to this committee, the Government Contract Review Committee, and the Administrative Regulation Review Committee. He said the issue would require a constitutional amendment to empower committees of the General Assembly to have power to override such Executive Branch decisions made during the interim.

Ms. Collins said also included in members' folders was correspondence from Mr. Ken Clevidence, Associate Vice President, Auxiliary and Campus Services, University of Kentucky, identifying the sources of funds for the cost overrun on the Biomedical Biological Sciences Research Building project; a letter from the committee transmitted to all state agencies and postsecondary institutions outlining the policy the committee adopted last month regarding review of unbudgeted capital projects; and correspondence from Western Kentucky University (WKU) transmitting its quarterly report on the Diddle Arena Renovation project. Ms. Collins noted that the design of the Phase 2 package is going very slowly and that WKU reports the Phase 2 schedule could be in jeopardy.

In response to a question from Representative Wayne, Mr. Jamie Link, Deputy Commissioner, Department for Facilities Management, said Phase 1 of this project is nearly complete, and Phase 2 includes the flooring and the seating. He said they would have to check with the architect and the university for further details. They are trying to get through the Sunbelt Conference in March before they actually start Phase 2.

Representative Wayne made a motion to ask WKU to bring the committee up-to-date on the WKU Diddle Arena Renovation project at the January meeting. The motion was seconded by Senator Buford and passed by voice vote.

Ms. Collins said the two remaining items in committee member folders were the monthly Lottery report for October, and a status report on various projects.

Representative Damron asked what is the statutory provision which allows unclaimed lottery winnings in excess of \$6 million to be transferred to the Affordable Housing Trust Fund. Ms. Collins said that provision is not in the statute, but has been included in past enacted budgets, and is considered part of the Governor's FY 2002/2003 spending plan.

Chairman Haydon said it was over a year ago that the committee started reviewing alternative construction delivery methods. He noted the KHEAA building was constructed using one of those methods, the design-build concept. He said Commissioner Russ and his staff have agreed to discuss today the experience the Finance and Administration Cabinet has had with this method.

Commissioner Russ introduced Mr. Link and Mr. Steve Sharp, Director of Engineering, Department for Facilities Management. Commissioner Russ said the design-build method of construction involves contracting with a team composed of both architects/engineers and a construction contractor. Normally, the state uses a design-bid-build, which means the state contracts for architectural and engineering services separately from the contractor.

Commissioner Russ identified the four projects for which the state has or is using the design-build method: the KHEAA office building, the Northern Kentucky University (NKU) Raising Hall Dormitory project, the Elliott County Prison project, and the Morehead State University (MoSU) Family Housing Complex. The projects cost a total of \$121,348,000.

Commissioner Russ said the KHEAA office building is 100,000 square feet. It was originally designed as 75,000 square feet, but they were able to modify that within the budget that had been allocated. He said for the construction and major fit-up of the building, it cost \$89 a square foot to build (not including certain costs relating to electric, technology and phone systems, and security). The building has a raised floor system that allows easy access to the wiring and duct work. He said the Transportation Cabinet Office building will have the same kind of floor. It allows various wiring configurations to be done quickly, easily, and cheaply in the future, although it costs more initially.

Commissioner Russ said it took a long time to develop the Request for Proposal (RFP) for the KHEAA building and to select a design-build team. After awarding the bid, the project took 23 months to complete and the total cost was \$12 million.

Commissioner Russ said the NKU Raising Hall Dormitory project is probably a prototype of campus construction in the future. This building is the type of housing students prefer; it has more access to kitchens, individual bathrooms, and individual rooms. He noted this style is more expensive to construct than the older style dorms. The NKU dorm is now under construction, and completion is expected in July 2003. The four-story building will contain 400 beds, as well as classrooms, computer labs, and lounge areas. The project authorization is \$14,500,000.

Commissioner Russ said the Elliott County prison is the largest of the four construction projects using the design-build method. The project scope is \$90,848,000, and the project consists of 393,144 square feet in 19 buildings. Commissioner Russ said this has been an excellent project, and the construction is going very smoothly. The project was started in July 1998, and will be completed in April 2004.

Commissioner Russ next discussed the Morehead State University Family housing complex. He said MoSU was on a very tight construction budget, and one of the big challenges of working with the universities is providing dormitory facilities with all the amenities that the students want at a price they can afford. This was also the first project initiated using the design-build method. He said the project was started in November 1999, and was completed in July 2002. The project authorization was \$4,000,000.

Based on the Department's experience, Commissioner Russ outlined the advantages of using the design-build method: construction can start before design is completed; the design-build-team is a single source of responsibility during the design and construction; the proposals allow for innovation in design; and there are no errors and omissions change orders.

He said some of the disadvantages were: the RFP must be highly detailed to avoid having to accept lower quality products or multiple change orders, and there is additional work for the staff and an extended procurement time. Commissioner Russ said the current statutes do not allow negotiation with the winning design-build firm, prior to award of the contract, and the current statutes do not allow cost savings relating to the guaranteed maximum price to be returned to the owner, so the guaranteed maximum price, in essence, is a bid.

Commissioner Russ said the design-build method is promoted as a project delivery method that would bring projects in faster, cheaper and better. He said based on their early experience, projects probably do not come in faster. In fact, in some cases, because of the RFP process, it took longer. He said they also do not have the data to indicate that

using design–build was a lot cheaper. He said in their initial RFPs, two of the four projects were awarded to someone other than the low bidder. In one case, it was the high bidder. He said design–build does not necessarily mean the cheapest price, but you get the product you are looking for within the budget you have. Commissioner Russ said it is hard to quantify whether the design–build method is better, it is a function of the specifications. He said in every case where the Department failed to specify something in detail, they had to accept the level of quality offered by the design–build team in order to stay within budget.

Commissioner Russ said the RFP process could be faster if the state had a standard building design available. He said one of the advantages is that guaranteed price forces design discipline on the agencies involved. The guaranteed maximum price is a set amount estimated early in the process. He said all of these projects will come in without having to come to this committee for any additional funds, and that is one of the advantages of the guaranteed maximum price. Commissioner Russ said they have not seen any advantages in terms of the workmanship. Commissioner Russ concluded his presentation by saying while the design-build method is not the best system for every project, it does have its place. It is best suited for very simple facilities or specialty facilities such as prisons. The success of any project, regardless of the construction delivery process used, is ultimately dependent on the quality of the architect–engineer and the contractor selected. He said his staff will continue to research this, and hopefully come back with more information on design–build, and other delivery methods.

In response to a question from Representative Wayne, Commissioner Russ agreed that when using design–build, the review of the RFP is less objective than the traditional method which uses sealed bids. He said the review is more subjective anytime a best-value procurement versus a low–bid procurement is used. The reason for this is that criteria, such as experience, are considered in addition to price.

Representative Wayne said he could see certain advantages to the method but expressed concern, noting that architects, engineers, and contractors often make donations to gubernatorial candidates. He said he hoped the selection process under design–build can be made more objective. He said there is a risk of using design–build, and the state cannot open itself up to abuse by people who might have made large donations to gubernatorial candidates. Noting legislation relating to alternative construction delivery methods was introduced last session by Senator Marshall Long, he suggested Commissioner Russ review that proposal and report back to the committee, so something can be introduced in January.

Mr. Link noted that the scoring used for the design–build process is still heavily slanted towards price, which is an objective criteria. Proposals are scored with a total possible points of 100. He noted that for the KHEAA project, price was worth a possible 40 points, and for the Elliott County Prison project, price was worth 65 points.

Representative Wayne said such scoring, which assures price continues to be a major consideration, needs to be set out in the statutes so the design–build method cannot be abused in the future. Otherwise, he said, a future administration could possibly make the criteria even more subjective.

Senator Buford asked why the KHEAA building does not have its name on it. Commissioner Russ said a sign will be placed outside the building that says 100 Airport Road. He said for the foreseeable future, there will be more than one tenant in this building, and there will be signs for each tenant.

In response to a question from Senator Leeper, Commissioner Russ said the Secretary's Office of the Public Protection and Regulation Cabinet and the Education Professional Standards Board will lease space on the fourth floor.

Chairman Haydon said two weeks ago Governor Patton issued an executive order outlining steps that are to be taken to reduce the state's administrative costs. Many of these steps affect areas of the Committee's jurisdiction — leases, energy costs, hiring of architects and engineers through personal service contracts, and the selling of surplus property. Chairman Haydon said Glenn Mitchell, Deputy Finance Secretary, had agreed to briefly review the executive order and take questions.

Mr. Mitchell summarized the cost-cutting measures in the Governor's executive order. He said the state work force will be reduced through attrition by 1,000 over the next twelve months, the motor pool fleet will be reduced by approximately 500 vehicles, measures will be undertaken to reduce state utility costs, a moratorium has been placed on state leases, contract printing will be reduced, furniture and equipment purchases will be reduced, and state agencies have been asked to review their surplus property (equipment, furniture, or vehicles) and sell it at public auction. He said these initiatives will generate approximately \$30 million annually.

Representative Wayne asked why postsecondary education institutions are exempt from following the executive order. Mr. Mitchell said postsecondary education institutions must report to their governing boards, but they have been asked to participate in the executive order.

Chairman Haydon asked what the total printing cost is for state government. Mr. Mitchell said he would find that information and inform the committee. He noted that the administration estimates \$250,000 in savings in printing costs under the executive order. Chairman Haydon said that he received a number of publications from state agencies which did not appear to be useful.

Representative Damron noted the high quality expensive mailings state agencies send to legislators. He suggested mailings be sent electronically or on less expensive paper.

Representative Joe Barrows said the Program Review and Investigations Committee prepared a study in the mid-1980s on state printing costs. He suggested the committee review that study, and ask the Program Review Committee to prepare an update on it.

Representative Marcotte asked how much road money has been spent on public service announcements, and questioned such expenditures, given the current budget situation. Chairman Haydon said some people, including himself, believe that public service announcements can be effective in encouraging people to drive safely, and noted the state has experienced a record number of fatalities. Mr. Mitchell agreed that there is a benefit to raising public awareness. He said he believed some of the funds used for these public service announcements are federal funds that must be used for education. He said he would confirm this with the Transportation Cabinet, and report back to the committee.

Chairman Haydon said the next item of new business was a project report by Dr. Michael McCall, President of the Kentucky Community and Technical College System (KCTCS), regarding the lease-purchase of office space in Woodford County. Dr. McCall introduced Representative Joe Barrows; Fred Siegelman, Mayor of Versailles; and Ken Walker, KCTCS.

Dr. McCall said KCTCS has been seeking a permanent home since they were established. He said currently they are in five different buildings in three locations, with four different landlords. He said they had sought authorization from the General Assembly for a capital construction project, but it has not been funded. Dr. McCall said about a year and a half ago KCTCS began looking for alternate space to centralize its offices. He said they did find space, but at a premium cost. They had looked at the old Texas Instruments building in Versailles previously, and last summer, they were approached by the City of Versailles about a lease-purchase agreement relating to the property. Texas Instruments has agreed to donate this property to the City of Versailles at no cost, and the City of Versailles is proposing to borrow the money needed to renovate the space (approximately 75,000 square feet) to KCTCS's specifications. He said the facility has a much larger space than 75,000 SF, and KCTCS would not renovate the entire space, but would have it available for educational and training opportunities.

Dr. McCall said the entire KCTCS staff would be in one location, and this would be a community development partnership with the City of Versailles. He said the lease will not have any escalation clause and any additional costs will be for utilities and necessary services. Dr. McCall said KCTCS is the newest institution of higher education

in Kentucky and they have worked diligently to achieve the goals that were set out in House Bill 1 (1997 Special Session on higher education reform).

Representative Wayne asked what will happen to the five leases KCTCS currently has once they move. Dr. McCall said they currently lease approximately 27,000 SF from the state and 35,000 SF from private individuals. He said they have the ability to terminate the private sector leases. He said it will be around the beginning of fiscal year 2004 before they move into the new building, so there is time to make adjustments, and time for the state to relocate agencies to the state-owned property (Spindletop Research Park in Lexington). Mr. Hintze said all state space vacated by KCTCS, including the space KCTCS leases from the Council on State Government located on the Spindletop campus, will be reoccupied by other state agencies, with the policy preference being to move them from other privately-leased space. He said there are many state agencies in barely adequate privately-owned space.

Representative Wayne said if the state is trying not to expand government leases, it seems contradictory to move agencies into additional space. Mr. Hintze said that even though there is a policy not to expand leases, the state is not going to deny itself the opportunity to move on a long-term lease that will have an economical advantage such as the KCTCS lease-purchase.

Senator Buford asked about the status of the building appraisals. Mr. Hintze replied that the appraisal is incomplete. He said the appraisals have been received and transmitted to the Finance Cabinet, but they have not received final review and approval.

In response to another question from Senator Buford, Mr. Walker said the appraised values were \$6.5 million and \$7.4 million after renovation, and currently without any renovations, \$2.6 million.

Senator Buford asked if there are any problems with the appraisals. Commissioner Russ said they just received the appraisal information Monday, and had not had an opportunity to review them. He said they will very thoroughly review the documents, but do not anticipate any problems.

Mayor Siegelman said when Texas Instruments moved from the City of Versailles, it was a great loss. He said since Texas Instruments is donating the building to the City, this is a winning situation for both the community of Versailles and the state. He said the city commissioners are in complete understanding of what is being done, and are 100% behind it. He said he saw no problems with the appraisals.

Senator Leeper asked if KCTCS will be asking for additional operating money from the General Assembly. Dr. McCall assured the committee they will not be asking for additional operating funds from the General Assembly as a result of this lease. He

explained that KCTCS expends close to \$100,000 to lease meeting room space each year, and this cost will be eliminated once KCTCS moves to the Versailles facility.

Senator Leeper asked who will be responsible for cost overruns during the renovation of the facility. Mr. Siegelman said he thought the renovation would cost less than \$6.3 million. Dr. McCall said if the bids come in over budget, they would rework the project; KCTCS is committed to not spend over \$6.3 million. Mr. Hintze reiterated KCTCS has committed that they will not ask for additional funds relating to the amortization schedule for this building.

In response to a question from Representative Wayne, Mr. Siegelman said that prevailing wage would be paid for the renovation work on the facility.

Senator Buford made a motion to approve the lease–purchase contract between the City of Versailles and KCTCS, provided all state requirements are met, including final approval by the Finance Cabinet. The motion was seconded by Representative Marcotte and passed by voice vote.

Chairman Haydon asked Mr. Hintze and Armond Russ, Commissioner of the Department for Facilities Management, to present the monthly Finance and Administration Cabinet project report.

Mr. Hintze reported an allocation of \$404,000 from the Emergency Repair, Maintenance and Replacement Fund for the Cabinet for Health Services. The funds will be used to repair/replace two chillers at Western State Hospital. Mr. Hintze said this amount is a major installment against what would have been a \$612,000 bond issue. He said they are hopeful that authorization for the bond issue will be given in the upcoming session to allow them to move forward with the entire project. If this happens, he said the emergency fund will be replenished. Chairman Haydon said this is an emergency project and no action is required.

Mr. Hintze next reported a \$25,800 scope increase for the Green River State Park Horton Camp project. The source of funds for the increase is the Department of Parks Maintenance Pool. The funds will be used to tie the state park's camping area, maintenance complex, grocery store, and employee residence into the City's sewage system.

Chairman Haydon invited Secretary of the Tourism Development Cabinet Ann Latta to the table. In reference to the earlier discussion on printing costs, Chairman Haydon said the brochures the Tourism Cabinet does are very important for economic development within the state. Secretary Latta said while they are competing with other states for tourism dollars, they are making every effort to reduce printing costs. She said publications are now available for download on the computer, and that is providing

substantial savings. Representative Marcotte said the state should continue to meet the printing needs of the Tourism Development Cabinet.

Representative Damron made a motion to approve the scope increase for the project. The motion was seconded by Senator Buford and passed by voice vote. The revised project scope is \$675,800.

Mr. Hintze reported an \$1,500,000 unbudgeted, privately-funded project for Northern Kentucky University (NKU) called the Lake Improvement project. The project would develop and landscape a former farm pond and 6.5 acres to create a Campus Green, envisioned as a space where students and faculty meet informally and as a positive image for visitors.

Senator Buford made a motion to approve the NKU Lake Improvement project contingent upon receipt of the private donations. The motion was seconded by Representative Damron and passed by voice vote.

Chairman Haydon said the next agenda item is a lease modification of under \$50,000 for the Board of Medical Licensure in Jefferson County (PR-3686). Chairman Haydon said this improvement was made prior to the Governor's recent executive order, and no further action is required for this lease.

Chairman Haydon said the next agenda item was the bond activity report from the Office of Financial Management. He asked Ms. Sandy Williams, Kentucky Infrastructure Authority (KIA), to report new items proposed for KIA assistance. Ms. Williams presented two Fund E grants – \$150,000 for Warren County and \$75,000 for Meade County. The proceeds will be used to clean up open dumps in Kentucky.

Representative Damron asked Ms. Williams to provide the committee with a status report on the counties that have applied for and received Fund E grants as part of the Clean Counties Program and a report on the process for applying for those funds.

In response to a question from Representative Damron, Mr. Roger Recktenwald, Director, KIA, said the Clean Counties Program is part of HB 174 (2000 Regular Session).

Ms. Williams next presented two new Fund F loans: \$1,229,000 to the Bullock Pen Water District in Boone and Grant Counties to build a water storage tank and replace several water lines; and an amendment of \$452,350 to the City of Grayson in Carter County to upgrade the raw water intake on the Little Sandy River. The total scope for the Grayson Project is \$5,896,855.

Representative Marcotte made a motion to approve the Fund F loans. The motion was seconded by Senator Buford and passed by voice vote.

Ms. Williams reported four 2020 Account/Fund B Grants: City of Stamping Ground, Scott County; Sharpsburg Water District, Bath County; City of Elizabethtown – Hardin County Regional Water Group; and the Cadiz-Trigg County Regional Water Commission. The committee approved these projects in January, and no further action was required.

Chairman Haydon next called on Mr. Tom Howard, Deputy Executive Director, Office of Financial Management, to discuss the agency's bond issue report. Mr. Howard presented one new bond issue: Kentucky Housing Corporation Single-Family Mortgage Revenue Bonds, Draw Down Series of 2002, net proceeds not to exceed \$500,000,000. The proceeds will be used to preserve private activity bond cap allocations, repayments, and prepayments of existing loans.

Representative Damron made a motion to approve the bond issue. The motion was seconded by Senator Buford and passed by voice vote.

Mr. Howard reported three refunding bond issues with School Facilities Construction Commission (SFCC) debt service participation: Frankfort Independent (Franklin Co.); Franklin County; and Laurel County.

Representative Damron made a motion to approve the school bond issues. The motion was seconded by Senator Buford and passed by voice vote.

Chairman Haydon said there were also three locally funded school bond issues submitted to the committee for review this month: Daviess County; East Bernstadt Independent (Laurel Co.); and Pulaski County. He said all disclosure information has been filed, and no further action on the bond issues is required.

Chairman Haydon said the University of Kentucky reported the purchase of medical equipment at a cost of \$2,330,000. He said no further action is required for purchase of medical equipment.

With there being no further business, Representative Damron made a motion to adjourn the meeting. The motion was seconded and passed by voice vote. The meeting adjourned at 2:50 p.m.